

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Miami Division
IN ADMIRALTY**

PAN OCEAN CO., LTD.,

Plaintiff,

vs.

WORLD FUEL SERVICES (SINGAPORE)
PTE, LTD.,

Defendant.

Case No. 23-cv-20014-CMA

**DEFENDANT'S EXPEDITED MOTION FOR ORDER REQUIRING PLAINTIFF TO COMPLY
WITH THE COURT'S OCTOBER 13, 2023 ORDER BY 12:00 P.M. ON OCTOBER 20, 2023**

Defendant World Fuel Services (Singapore) PTE, Ltd. (“WFS”) moves for an order requiring Plaintiff Pan Ocean Co., Ltd. (“Pan Ocean”) to comply with the Court’s October 13, 2023 Order Following Discovery Hearing [ECF No. 46] (the “Order”) by 12:00 p.m. (noon) on October 20, 2023, and states as follows:

I. RELEVANT BACKGROUND

1. On October 13, 2023, the Court entered an order with an effective date of October 12th granting Defendant’s Discovery Memorandum [ECF No. 39] and *Ore Tenus* Motion [ECF No. 44], as follows:

1. With respect to Defendant’s Interrogatory No. 9 and Request for Production No. 29, Plaintiff shall amend and/or supplement its responses to reflect the withdrawal of Plaintiff’s prior objection on the basis of privileged settlement communications between Plaintiff and non-party MUR Shipping BV (“MUR”) and to clarify whether any responsive documents or information are being withheld on any grounds. If Plaintiff withholds any documents based on a claim of privilege, Plaintiff shall object in its respective responses to each request and identify the withheld documents in a privilege log pursuant to the Federal Rules of Civil Procedure.
2. With respect to Defendant’s Requests for Production Nos. 3 and 10, Plaintiff shall amend and/or supplement its responses to include relevant insurance policy(ies) held by Pan Ocean. Plaintiff shall produce responsive documents, including documents reflecting claims made against Plaintiff’s insurance policy and determinations made in connection with those claims. If any responsive documents are being withheld, including on the basis of work product, Plaintiff shall so indicate and identify the withheld documents in a privilege log pursuant to the Federal Rules of Civil Procedure.

ECF No. 46 at 2.

2. Pan Ocean has completely failed to comply with the Order.
3. Moreover, Pan Ocean has refused to confirm if or when it will comply with the Court’s Order.

II. ARGUMENT

4. Where, as here, a party “fails to to obey an order to provide or permit discovery. . . , the court where the action is pending may issue further just orders.” Fed. R. Civ. P. 37(b)(2)(A); *see also Elof Hansson Paper & Bd., Inc. v. Caldera*, No. 11-20495-CV, 2013 U.S. Dist. LEXIS 192131, at *30 (S.D. Fla. June 4, 2013) (noting that the list of “just orders” in Rule 37(b)(2)(A) is “non-exhaustive”); Fed. R. Civ. P. 37(b)(2)(C) (“Instead of or in addition to the orders above, the court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney’s fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.”).

5. WFS is scheduled to take the Rule 30(b)(6) deposition of Pan Ocean’s corporate representative(s) on Monday, October 23, 2023.¹

6. WFS requires the documents and information at issue to prepare for that deposition. WFS will be prejudiced in its examination of Pan Ocean if the documents and information are not provided in advance of the deposition because, as the Court agreed at the October 12, 2023 discovery hearing, Pan Ocean’s settlement communications with non-party MUR, and its insurance policy and any insurance claims submitted and any determinations made in connections with those claims, are highly relevant to the issues in this case. Indeed, the outstanding documents and information may reveal that Pan Ocean’s alleged damages are a complete fiction.

¹ The deposition, which was originally scheduled for October 18, 2023, was rescheduled at Pan Ocean’s request.

7. The documents and information at issue are in Pan Ocean's possession, custody, or control, and Pan Ocean has had four (4) business days to comply with the Court's Order.

III. CONCLUSION

For all the foregoing reasons, WFS respectfully requests that the Court enter an order today, October 19, 2023, requiring Pan Ocean to comply with the Court's Order by noon, tomorrow, October 20, 2023, awarding WFS its attorneys' fees incurred in connection with this Motion, and reserving the right to issue further sanctions should Pan Ocean fail to fully comply with the Order by 12:00 p.m. on October 20, 2023.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(3)(A)

Pursuant to Local Rule 7.1(a)(3)(A), I hereby certify that counsel for movant has made reasonable efforts to confer with counsel for Pan Ocean in a good faith effort to resolve the issues raised in the Motion. Specifically, prior to filing the instant Motion, WFS' counsel emailed Pan Ocean's counsel on October 13, 18, and 19, 2023. Pan Ocean's counsel did not respond.

Date: October 19, 2023

Respectfully submitted:



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